



The Official Gazette of Romania, Part I. No. 24 of January 30, 1991 L A W on the Repression of Unfair Competition

Art .1. - Traders shall pursue their activity in good faith and in compliance with fair practices.

Art .2. - Any act or fact contrary to fair practices in the industrial or commercial activities shall be deemed to constitute acts of unfair competition under the present law.

Art.3. - Infringement of the provision stipulated in Art.1 shall entail the civil, contravening or criminal liability under the present law.

Art.4. - The following acts shall be deemed to constitute contraventions, unless they have been committed under such circumstances as to be considered offence according to criminal law:

- a) infringement by natural persons of the provision stipulated in Art. 36 of Law 15/1990 concerning reorganization of state-run enterprises as self-governing administrations and trading companies;
- b) offering services by a trader`s exclusive employees to a competitor or acceptance of such an offer (by the same);
- c) divulgence of secret information on a trader`s business, by a trader`s employee, to a competitor;
- d) conclusion of contracts by which a trader undertakes to deliver goods or perform services provided that the client supplies further buyers with whom the trader would conclude similar contracts;
- e) conclusion of contracts whereby the buyer would receive an award which exclusively depends upon a drawing of lots or hazard;
- f) public communication or dissemination by a trader of allegations regarding his enterprise or its business, intended to mislead and put him in a favourable position to the detriment of his competitors;
- g) communication or dissemination by a trader of false allegations regarding a competitor or his goods, which are liable to prejudice the normal course of the competitor`s business.
Confidential communications shall be deemed to constitute an act of unfair competition only when the communicator was aware of the untruthfulness of his allegations;
- h) offering, promising or giving, gifts or other advantages directly or indirectly, to a trader`s employees or representatives so that by unfair conduct one may get information about the trader`s industrial processes, get know of, or use the trader`s clients, or obtain any other advantages for oneself or for another person to the detriment of a competitor;
- i) attracting a trader`s clients, availing oneself of the relationships established with such clients within the duties previously performed for the trader in question;
- j) dismissing a trader`s employees in order to set up a competing company intended to attract the competitor`s clients or hiring a trader`s employees for the purpose of disorganizing that trader`s business.

Contraventions stipulated under subsection a) shall be sanctioned by fines from Lei 5,000 to 20,000, those under subsections -b) to e) fines from Lei 10,000 to 40,000, and those under subsection f) to j) by fines from Lei 20,000 to 60,000.

The sanctions may be applied to legal persons as well.

Contraventions shall be acknowledged, upon receipt of the injured party's notice, by employees specially authorized by the local chambers of commerce and industry or by the State Body for Trade Inspection.

The agents acknowledging contraventions shall impose fines at the same time when they acknowledge the contraventions.

Contraventions stipulated in paragraph 1 shall be subject to the provisions of Law No. 32/1968 on setting down and sanctioning contraventions.

Art.5. - The following shall be deemed to constitute acts of unfair competition and are punishable by imprisonment from one month to two years or by fines from Lei 20,000 to 100,000:

- a) making use of a sign, emblem or special designations or packaging likely to cause confusion with those legitimately employed by another trader;
- b) manufacturing in any manner, importation, exportation, storage, selling or offering for sale goods bearing deceptive indications regarding patents of inventions, origin and characteristics of the goods, as well as the name of the producer or trader, for the purpose of misleading other traders and consumers.

Any mention liable to induce people to believe that the goods have been manufactured in a certain place, on a certain territory or in a certain country shall be deemed deceptive indications of source.

It shall not be deemed to constitute a deceptive indication of source on goods the denomination of a product that has become a generic name and only indicates its nature within the trading business, except where the denomination is accompanied by a mention which could induce people to believe it has that origin.

Art.6. - The trader who has committed an act of unfair competition shall be obliged to discontinue committing the wrong or to remove it and, as the case may be, to pay damages for the prejudice caused.

Art.7. - Legal actions arising in connection with unfair competition acts shall come under the competence of the local court where the act has been committed or under whose jurisdiction comes the place of business of the defendant; in the absence of a place of business the competence shall belong to the court under whose jurisdiction comes the domicile of the defendant.

Art.8. - In the cases provided for in Art.5 the penal action shall be commenced upon receipt of the injured party's complaint or upon notification by the local Chamber of Commerce and Industry or by another professional organization.

Art.9. - Should any of the facts provided for in Arts. 4 or 5 cause patrimonial or moral damage, the injured party shall be entitled to request an appropriate civil action to be commenced with the competent court.

If the facts stipulated by this law have been committed by an employee in the course of exercising his duties the trader shall be liable jointly and severally with the employee for the damage caused, except for the cases where he is able to prove that, in accordance with practices, he was not in a position to prevent the perpetration of the fact.

The persons who caused the prejudice together shall be jointly and severally held responsible for the unfair competition acts or facts committed.

In order to take measures that cannot be delayed, the provisions of Art.581 and 582 in the code of civil procedure may be applied.

Art.10. - Through first decisions the court may order the goods, put under distraint, to be sold after the deceptive indications have been destroyed.

Part of the amount resulted from the sale shall first cover the damages which have been fixed.

Art.11. - Concurrently with the pronouncement of the conviction or the obligation to discontinue committing the wrong or to carry out remedies for damage, the court may order the decision to be published in the media at the wrongful party`s expense.

Art.12. - The right to start an action as provided for in Art.9 shall be lost by prescription within one year of the date on which the injured party learnt or should have learnt of the damage and the person who caused it, but no later than three years as of the date on which the fact was committed.

Art.13. - The provisions of the present law shall be completed by the provisions of the code of civil procedure or, as the case may be, the code of criminal procedure.

Art.14. - The provisions of the present law shall also apply to foreign natural or legal persons who commit acts of unfair competition on the territory of Romania.

Art.15. - This Law shall come into force on the date of its publication in the Official Gazette.

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